

United States District Court District of Massachusetts

UNITED STATES OF AMERICA,

v.

CRIMINAL NO. 2003-10370-DPW

DOUGLAS K. BANNERMAN,
KURT WALTER,
GARY NEWELL,
DANIEL MACAULEY,
JOHN McCARTHY,
JOHN GRAHAM,
SCOTT MYERS,
JOSE VEZGA,
Defendants.

ORDER AND RECOMMENDATION AFTER FINAL STATUS CONFERENCE PURSUANT TO LOCAL RULE 116.5(C)

COLLINGS, U.S.M.J.

A Final Status Conference was held on December 1, 2004.

The within Order is prepared pursuant to Local Rule 116.5(D). Using the
enumeration of matters listed in Local Rule 116.5(C), I report as follows:

- (1) None.
- (2) The Government is procuring the form which defendant Newell allegedly signed giving consent to search his apartment.
- (3) No.
- (4) The United States has not requested notice of alibi.
- (5) Numerous non-discovery type motions have been filed. Decision on these motions is RESERVED to the District Judge. Defendant McCarthy may file additional non-discovery type motions by December 8, 2004. Counsel for Newell may file a motion to suppress items taken in the search of her client's apartment in Oregon at the time of his arrest once the Government determines whether to offer any evidence seized from the apartment during its case-in-chief.
- (6) *An Initial Pretrial Conference should be set in early January, 2005.*
- (7) The case will probably have to be tried except as to the defendant MacAuley who will plead; trial will last about four weeks.
- (8) See Further Order of Excludable Delay (#145); there are no non-excludable days leaving seventy (70) days within which to commence trial once the pending motions are decided.
- (9) Four weeks.

Using the numeration of matters listed in Local Rule 116.5(D), I report as follows:

- (1) Yes.
- (2) Yes; no reason for the case to remain with the magistrate judge.
- (3) See ¶ (5), *supra*.

- (4) *See ¶ (8), supra.*
- (5) Four weeks.
- (6) The District Judge needs to decide defendant Bannerman's Motion for Appointment of Counsel.

The Superseding Indictment remains partially sealed.

I RECOMMEND that the Court set the case down for an Initial Pretrial Conference pursuant to Local Rule 117.1 ***IN EARLY JANUARY, 2005.***

THE FILE IS RETURNED TO THE CLERK'S OFFICE WITH INSTRUCTIONS TO BRING THE CASE TO THE IMMEDIATE ATTENTION OF THE COURTROOM DEPUTY CLERK ASSIGNED TO JUDGE WOODLOCK'S SESSION.

The Clerk shall enter on the docket the fact that the case "is no longer referred to Magistrate Judge Collings."

/s/ Robert B. Collings

ROBERT B. COLLINGS
United States Magistrate Judge

December 6, 2004.